

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tahreem Khan	Team: Squad #11	CCRB Case #: 202003689	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 12:35 AM	Location of Incident: Outside of § 87(2)(b)	Precinct: 43	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 05/30/2020 2:01 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 05/30/2020 2:01 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Yahnny Arias	19785	958765	PSA 8
2. POM Perry Jean	27174	950627	PSA 8
3. SGT Amanda Szot	05413	946306	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Yahnny Arias	Abuse: Police Officer Yahnny Arias stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(g), § 87(4-b)
B.POM Perry Jean	Abuse: Police Officer Perry Jean stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(g), § 87(4-b)
C.SGT Amanda Szot	Abuse: Sergeant Amanda Szot stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(g), § 87(4-b)
D.POM Yahnny Arias	Off. Language: Police Officer Yahnny Arias used offensive language towards § 87(2)(b)	§ 87(2)(g), § 87(4-b)
E.POM Yahnny Arias	Discourtesy: Police Officer Yahnny Arias spoke discourteously to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
F.POM Yahnny Arias	Abuse: Police Officer Yahnny Arias refused to provide his name to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
G.POM Perry Jean	Abuse: Police Officer Perry Jean refused to provide his name to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
H.SGT Amanda Szot	Abuse: Sergeant Amanda Szot refused to provide her name to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
I.POM Yahnny Arias	Abuse: Police Officer Yahnny Arias refused to provide his shield number to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
J.SGT Amanda Szot	Abuse: Sergeant Amanda Szot refused to provide her shield number to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
K.POM Perry Jean	Abuse: Police Officer Perry Jean refused to provide his shield number to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)

Case Summary

On May 30, 2020, § 87(2)(b) filed this complaint online with the CCRB.

On May 30, 2020, at approximately 12:35 a.m., in the vicinity of § 87(2)(b) in the Bronx, § 87(2)(b) her fiancé § 87(2)(b) and their § 87(2)(b) old child were accompanying § 87(2)(b) on a food delivery. § 87(2)(b) drove to the delivery location and exited his car. Upon exiting, he saw an unmarked police vehicle behind him. Police Officer Yahnny Arias, of Police Service Area 8, yelled at § 87(2)(b) to get back in his vehicle. PO Arias, Police Officer Perry Jean, and Sergeant Amanda Szot, of Police Service Area 8, approached § 87(2)(b)'s vehicle (**Allegations A-C, Abuse of Authority, § 87(2)(g)** PO Arias allegedly began to insult § 87(2)(b) by calling him "stupid" and a "mamaguevo," which translates from Spanish to English as "cocksucker" (**Allegation D, Offensive Language, § 87(2)(g)** **Allegation E, Discourtesy, § 87(2)(g)** § 87(2)(b) alleged that § 87(2)(b) had then asked all three officers for their names and shield numbers (**Allegation F, Abuse of Authority, § 87(2)(g)** **Allegations G-H, Abuse of Authority, § 87(2)(g)** § 87(2)(b) allegedly had asked for all three officers' shield numbers (**Allegations I-J, Abuse of Authority, § 87(2)(g)** **Allegation K, Abuse of Authority, § 87(2)(g)** § 87(2)(g), § 87(4-b)

§ 87(2)(b) was not arrested or issued a summons because of this incident.

A body-worn camera video request was generated on June 12, 2020, for unknown officers. On August 20, 2020, NYPD responded with negative results. On August 20, 2020, a second BWC request was submitted for PO Arias and unknown officers. On August 31, 2020, the NYPD provided one positive BWC for PO Arias. On February 3, 2021, a third BWC request was generated with the following subject officers: Sgt. Szot, PO Arias, and PO Jean. On February 17, 2021, the NYPD provided one positive BWC for Sgt. Szot and noted that PO Jean did not have footage responsive to this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Yahnny Arias stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Police Officer Perry Jean stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (C) Abuse of Authority: Sergeant Amanda Szot stopped the vehicle in which § 87(2)(b) was an occupant.

PO Arias' BWC (**Board Review 6**) captures when the officers first approach § 87(2)(b)'s vehicle. The audio begins at 00:31. From 00:27 to 00:37, PO Arias exits his vehicle, approaches § 87(2)(b) who is already outside of his vehicle with the driver's side door closed. PO Arias tells § 87(2)(b) in Spanish to provide his driver's license. During these few seconds, PO Arias states four times, "Dame tu licencia." In the background, Sgt. Szot states, "driver's license." PO Arias, PO Jean, and Sgt. Szot are all present with § 87(2)(b). Due to the quality of the BWC footage, the camera does not focus enough on § 87(2)(b)'s vehicle license plate to see whether it was obstructed.

Sgt. Szot's BWC also (**Board Review 7**) captures when the officer's first approached § 87(2)(b) and shows where all three officers were positioned. The BWC starts as Sgt. Szot stands outside of her police vehicle, as do PO Arias and PO Jean. audio begins at 00:31. At 00:33, Sgt. Szot and PO Arias approach § 87(2)(b) who is standing outside of the vehicle on the driver's side. From 00:37 to 00:41, Sgt. Szot says "driver's license." In the background, PO Arias states, "Dame tu licencia." PO Jean is seen on the passenger's side of the vehicle.

This portion of the incident is not entirely captured on BWC. Due to the quality of the PO Arias and Sgt. Szot's BWCs, it is not clear in the video whether § 87(2)(b)'s vehicle license plate was visible.

On May 30, 2020, § 87(2)(b) (**Board Review 1**) was working for the § 87(2)(b) and § 87(2)(b). He was making his last delivery in his 2006 Honda Accord, which was in good working order. His wife, § 87(2)(b) was seated in the front passenger's seat and his § 87(2)(b)-old daughter was seated in the back-passenger's seat. At approximately 12:35 a.m., § 87(2)(b) turned onto Bolton Avenue and parked his vehicle on the right side of the road, across the street from § 87(2)(b) in the Bronx. After exiting his vehicle, he saw that a black Ford sedan was parked behind § 87(2)(b)'s vehicle and had its police lights on. Immediately after, PO Arias exited the driver's side of his vehicle and yelled at § 87(2)(b) telling him to get back in his car. § 87(2)(b) returned to his vehicle and sat in the driver's seat with his hands on the steering wheel. PO Arias leaned towards § 87(2)(b)'s window and stated that § 87(2)(b) should know that he is supposed to wait in his car when he is pulled over. PO Jean and Sgt. Szot told § 87(2)(b) that they stopped him because they could not see his vehicle's license plate. § 87(2)(b) did not know why the officers could not see his license plate as it was visible.

§ 87(2)(b) (**Board Review 2**) noted due to the Covid-19 pandemic, the New York State Department of Motor Vehicles (DMV) office was closed, which is why there was a temporary license plate on the vehicle which was valid until June 2020. She did not expand on what, if any, covering was on the temporary plate.

PO Arias (**Board Review 3**) testified that he observed § 87(2)(b)'s vehicle with the license plate covered in plastic. As the vehicle was passing the street, a light reflected off it, making it difficult to read the expiration date and the plate numbers. PO Arias did not recall having any specific conversation with PO Jean or Sgt. Szot regarding stopping § 87(2)(b). To indicate to § 87(2)(b) that he was being stopped, PO Arias flashed his lights and sounded the vehicle's alarm. § 87(2)(b) stopped his vehicle and stepped outside with a black bag in his hand. Without exiting his vehicle, PO Arias opened his car door and told § 87(2)(b) to return to his vehicle multiple times. After a few seconds, § 87(2)(b) returned to his car. All three officers then approached § 87(2)(b)'s vehicle. PO Arias asked § 87(2)(b) to exit the vehicle and asked why he stepped out when he was pulled over. § 87(2)(b) was yelling and told PO Arias that he was working. PO Arias then asked for § 87(2)(b)'s driver's license and registration. PO Arias noted in his memo book that § 87(2)(b) was warned and admonished.

PO Jean (**Board Review 4**) and Sgt. Szot (**Board Review 5**) provided statements that were consistent with the statement provided by PO Arias. Sgt. Szot noted in her memo book that § 87(2)(b) was warned and admonished.

§ 87(2)(b) stated that the officers stopped him because they could not see his vehicle's license plate. § 87(2)(b) did not mention whether his license plate was visible. All three officers testified that the license plate was not clearly visible, which was the sole reason for the vehicle stop. Due to the quality of the BWC footage, the camera does not focus enough on § 87(2)(b)'s license plate to see whether it was obstructed. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (D) Offensive Language: Police Officer Yahnny Arias used offensive language towards § 87(2)(b)

Allegation (E) Discourtesy: Police Officer Yahnny Arias spoke discourteously to § 87(2)(b)

There is no video footage of this portion of the incident.

§ 87(2)(b) (**Board Review 1**) stated that when PO Arias approached his vehicle, he spoke in both English and Spanish, and told § 87(2)(b) that he should wait in the car when he is being pulled over. Further, PO Arias called § 87(2)(b) "stupid" multiple times. § 87(2)(b)

§ 87(2)(b) told PO Arias that he did not need to speak to § 87(2)(b) like that. PO Arias called § 87(2)(b) “stupid” a few more times before walking back to his vehicle. § 87(2)(b) did not allege PO Arias calling him “mamaguevo.”

From inside of the vehicle, § 87(2)(b) (**Board Review 2**) saw PO Arias standing one arm’s length away from § 87(2)(b) and yelling at him in both English and Spanish. She heard PO Arias call § 87(2)(b) “dumb” and “stupid” multiple times. § 87(2)(b) had become defensive because he was being insulted by a stranger. He tried to show PO Arias that he was working and had a delivery to make. PO Arias did not want to listen to § 87(2)(b). Instead, he continued to call § 87(2)(b) “dumb” and “stupid.” PO Arias also insulted § 87(2)(b) in Spanish, calling him “mamaguevo,” which translates to “cocksucker.”

As previously mentioned, § 87(2)(b) did not recall observing this incident.

PO Arias (**Board Review 3**) testified that when he approached § 87(2)(b)’s vehicle, he asked § 87(2)(b) to step outside of the vehicle. He then asked § 87(2)(b) why he exited his car when he was stopped. PO Arias spoke to § 87(2)(b) in both English, and Spanish as § 87(2)(b) was speaking in Spanish. § 87(2)(b) was yelling and told PO Arias that he was working. PO Arias stated that he did not use the term “mamaguevo” or any terms that translate to “cocksucker” when speaking to § 87(2)(b). Further, he stated that he never called § 87(2)(b) “dumb” or “stupid.”

PO Jean (**Board Review 4**) and Sgt. Szot (**Board Review 5**) did not observe PO Arias use the term “mamaguevo” or any terms that translate to “cocksucker” when speaking to § 87(2)(b) nor did they observe PO Arias call § 87(2)(b) “dumb” or “stupid.” Further, Sgt. Szot testified that she did not understand much of PO Arias’ conversation with § 87(2)(b) as it was in Spanish, which she does not speak or understand.

§ 87(2)(b), § 87(2)(g)

Allegation (F) Abuse of Authority: Police Officer Yahnnv Arias refused to provide his name to § 87(2)(b)

Allegation (G) Abuse of Authority: Police Officer Perry Jean refused to provide his name to § 87(2)(b)

Allegation (H) Abuse of Authority: Sergeant Amanda Szot refused to provide her name to § 87(2)(b)

There is no video footage that captures these allegations.

§ 87(2)(b) (**Board Review 2**) stated that as the officers were about to leave, § 87(2)(b) asked all three officers for their names. When this request was made, PO Arias stood in front of § 87(2)(b) approximately 3 arm’s lengths away. PO Jean stood on the right side of § 87(2)(b) about 1 arm length away. Sgt. Szot stood on the left side of § 87(2)(b) but remained near § 87(2)(b)’s front passenger’s side window. The officers had walked back to their vehicle without responding to § 87(2)(b)’s requests. § 87(2)(b) never obtained any of the officers’ names. Instead, § 87(2)(b) took a picture of the officers’ vehicle license plate, as that was the only identifying information that he could see.

§ 87(2)(b) (**Board Review 1**) did not allege that he requested the officer’s names.

Throughout the course of this investigation, it was determined that § 87(2)(b) resides at § 87(2)(b) in the Bronx. § 87(2)(b) did not recall observing this incident, nor did anyone else in his home. PO Arias (**Board Review 3**) testified that after the officers returned to

their vehicle and § 87(2)(b) did too, PO Arias turned off his BWC. § 87(2)(b) then exited his vehicle and asked for PO Arias for his last name, which PO Arias verbally provided. He further stated that § 87(2)(b) did not ask PO Jean or Sgt. Szot for their names.

PO Jean (**Board Review 4**) stated that § 87(2)(b) had not asked of any identifying information from PO Jean, who was unsure if § 87(2)(b) had asked of any such information from Sgt. Szot or PO Arias.

Sgt. Szot (**Board Review 5**) did not believe that § 87(2)(b) asked for her name at any point. She did not observe § 87(2)(b) ask for PO Jean or PO Arias names in English. Sgt. Szot reiterated that the situation was hectic with two languages.

§ 87(2)(b) alleged that § 87(2)(b) asked all three officers for their names. § 87(2)(b) did not raise these allegations. PO Arias stated that § 87(2)(b) asked for only his name, and he provided it. PO Jean testified that § 87(2)(b) never asked for his identifying information. Sgt. Szot did not believe that § 87(2)(b) ever asked for her name, and she did not observe him ask for PO Arias or PO Jean's names but were sure that they did not refuse to provide it.

§ 87(2)(b), § 87(2)(g)

Allegation (I) Abuse of Authority: Police Officer Yahnnny Arias refused to provide his shield number to § 87(2)(b)

PO Arias's BWC footage (**Board Review 6**) captures this allegation. The audio begins at 00:31 mark in the media player. From 00:31 to 00:37, PO Arias tells § 87(2)(b) in Spanish to provide his driver's license. During these six seconds, PO Arias states four times, "Dame tu licencia [give me your license]." Sgt. Szot's voice in the background is heard and she says, "driver's license." At 00:37, § 87(2)(b) states, "I want ... badge number." A portion of his request was inaudible as PO Arias was speaking over § 87(2)(b) by stating "Okay, okay."

Once the officers returned to their vehicle, § 87(2)(b) (**Board Review 1**) took a picture of the officers' unmarked vehicle. The officers again exited their vehicle. § 87(2)(b) asked PO Arias, PO Jean, and Sgt. Szot for their shield numbers. PO Jean and Sgt. Szot told § 87(2)(b) Arias that they would provide it. PO Arias did not respond and asked for § 87(2)(b)'s identification card instead. While PO Jean and Sgt. Szot remained with § 87(2)(b) PO Arias went to his vehicle and returned a short while later to return § 87(2)(b)'s identification. Promptly after, all three officers returned to their vehicle, without providing their shield numbers.

§ 87(2)(b) (**Board Review 2**) stated that after § 87(2)(b) asked for the officers names, he also asked for their shield numbers, but none of the officers had provided it.

§ 87(2)(b) did not recall observing this incident.

During his first interview on January 14, 2021, PO Arias (**Board Review 3**) stated that after the officers returned to their vehicle and § 87(2)(b) did too, PO Arias turned off his BWC thinking that the interaction was over. § 87(2)(b) then exited his vehicle and asked for PO Arias for his last name and shield number, which PO Arias verbally provided.

During his second interview on December 16, 2021, PO Arias (**Board Review 17**) stated that after reviewing his BWC video, he heard § 87(2)(b) request his shield number at the point of the initial vehicle stop. PO Arias, citing the BWC video, recalled asking § 87(2)(b) "Let me get your ID. Let me get your ID." § 87(2)(b) then asked PO Arias for his name and shield number and PO Arias replied, "Ok. Ok. Ok. Just give me your ID." PO Arias stated that he did not provide his shield number at the time of this request, as he did not hear § 87(2)(b) ask. PO

reviewed her BWC footage, which was obtained after her previous interview. Sgt. Szot confirmed that she heard § 87(2)(b) say, "I want badge number." She did not know who he was speaking to in that portion of the clip. She heard herself say, "No problem," in response to § 87(2)(b)'s request. Sgt. Szot stated that to her understanding, she did not believe the request for a shield number to be provided was specific to her, since she was not standing with § 87(2)(b) nor was she certain if it was specific to another officer on scene. Sgt. Szot believed that § 87(2)(b) was speaking to the two other officers on scene. Sgt. Szot did not take any steps to ensure that the other two officers provided their shield numbers to § 87(2)(b) as her "main goal" was to de-escalate the situation. She noted that the situation was "getting a little more heated" and there was a child in § 87(2)(b)'s vehicle. The child was Sgt. Szot's "main focus" and noted that the safety of the child "came before" § 87(2)(b)'s request.

PO Arias (**Board Review 3**) stated that § 87(2)(b) did not ask Sgt. Szot for her shield number. PO Jean (**Board Review 4**) stated that Sgt. Szot never refused to provide her shield number to § 87(2)(b).

Officers should clearly provide their name, rank, shield number and command to anyone who requests it. NYPD Patrol Guide Procedure 203-09 (Board Review 8).

§ 87(2)(b), § 87(2)(g)

Allegation (K) Abuse of Authority: Police Officer Perry Jean refused to provide his shield number to § 87(2)(b)

PO Arias's BWC footage (**Board Review 6**) shows that at 00:37, § 87(2)(b) states "I want ... badge number." A portion of his request was inaudible as PO Arias was speaking over § 87(2)(b) by stating "Okay, okay." PO Jean comes into the view of the camera at the 00:41 mark. He appears to be on the passenger's side of the vehicle or appears to be standing further away.

§ 87(2)(b) (**Board Review 1**) and § 87(2)(b) (**Board Review 2**) stated that § 87(2)(b) asked for all three officer's shield numbers, but no officer had provided it.

§ 87(2)(b) did not recall observing this incident.

PO Jean (**Board Review 4**) stated that never refused to provide his shield number to § 87(2)(b). He reviewed PO Arias's BWC (**Board Review 6**). While PO Jean did hear § 87(2)(b) state "badge number" in the played BWC, he did not hear § 87(2)(b) make a request for any other officer's shield number as he was on the passenger's side during this portion of the incident.

PO Arias (**Board Review 3**) stated that § 87(2)(b) did not ask PO Jean for his shield number. Sgt. Szot (**Board Review 5**) did not observe PO Jean refuse to provide this shield number to § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) and § 87(2)(b) have been a party.
- PO Arias has been a member of service for six years and has been a subject in five other CCRB complaints, none of which have been substantiated.
 - § 87(2)(b)
 -
 - In case 201709256, he was a subject of an Abuse of Authority – Threat of arrest allegation, which was unsubstantiated.
 - § 87(2)(b)
 - He has one other active CCRB case for case 202005780 for Abuse of Authority – Entry of Premises and Question allegations.
- PO Jean has been a member of service for 10 years and has been a subject in one other CCRB complaint. He received a substantiated allegation disposition for a frisk in case 201405549 and was issued a penalty of formalized training. The Discourtesy – Word allegation in this case was unsubstantiated. He also received formalized training for failure to produce a stop and frisk report.
- Sgt. Szot has been a member of service for 14 years and has been a subject in two other CCRB complaints, none of which have been substantiated. Case 201507286 involved Force – Chokehold, Physical force, Abuse of Authority – Stop, and Offensive Language – Race allegations. Case 201701596 involved one Force – Physical force allegation. The complainant was uncooperative for both previous cases.

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) declined to mediate this case.
- As of May 6, 2021, no Notice of Claim request regarding this incident was filed with the Office of the New York City Comptroller (**Board Review 9, 10**).
 - According to the Office of Court Administration (OCA), neither § 87(2)(b) (**Board Review 11**) nor § 87(2)(b) (**Board Review 12**) have any prior convictions in the state of New York.

Squad No.: 11

Investigator: Tahreem Khan Inv. Tahreem Khan January 21, 2022
Signature Print Title & Name Date

Squad Leader: Edwin Pena IM Edwin Pena 01/21/22
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date